REMARKS

At the time the Final Office Action for the above-captioned matter was mailed (July 26, 2005), claims 1, 3-6, 9-23, 27-29, 33-41, and 44-50 were pending. Claims 1 and 18 have been amended in this response, and claim 51 has been added. Accordingly, claims 1, 3-6, 9-23, 27-29, 33-41, and 44-51 are now pending.

In the Final Office Action, all the pending claims were rejected. More specifically, the status of the application in light of this Office Action is as follows:

(A) claims 1, 18 and their dependents stand rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement;

(B) claim 18 and its dependents stand rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite; and

(C) claims 1, 3-6, 9-17, 44 and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,113,662 to Sprules ("Sprules").

The undersigned attorney wishes to thank the Examiner for engaging in a telephone interview on October 20, 2005. During the telephone interview, the pending claims, the foregoing rejections, and the applied reference were discussed. The following remarks summarize and expand upon the agreements reached during the October 20 telephone interview. For example, the following remarks and the foregoing claim amendments reflect the Examiner's agreement that the claims, as presently amended, comply with Section 112.

A. Response to the Section 112, First Paragraph Rejections

Claims 1, 18 and their dependents were rejected under 35 U.S.C. § 112, first paragraph because the phrase "substantially free of glass, metals, plastics and paper" allegedly lacked support in the specification. Claims 1 and 18 have been amended without

narrowing the scopes of these claims to replace the word "substantially" with "approximately or completely". As agreed to by the Examiner during the October 20 interview, this amendment overcomes the Section 112 rejections of the foregoing claims. Accordingly, these rejections should be withdrawn.

Claim 1 has been further amended, without narrowing the scope of the claim, to eliminate the phrase "in the form of a fluff." The Examiner agreed that this amendment would not affect the patentability of claim 1 under Section 103, which is discussed further under Heading C below.

Claim 18 was further rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to support the phrase "before and/or after" in element (c) of the claim. Without commenting on or conceding the merits of this rejection, claim 18 has been amended to replace the phrase "before and/or after" with the word "after." The Examiner agreed that this term is adequately supported by the specification. The Examiner also agreed that the term "before" is adequately supported by the specification. Accordingly, applicants have added new claim 51, which is identical to amended claim 18, except that the word "after" in element (c) has been replaced with the word "before." Accordingly, claim 51 also complies with Section 112 and should be in condition for allowance.

B. Response to the Section 112, Second Paragraph Rejection

Claim 18 and the claims depending therefrom were rejected under 35 U.S.C. § 112, second paragraph because element (b) of claim 18 allegedly did not clearly indicate how waste is treated in order to obtain a fluff. Element (b) of claim 18 has been amended without narrowing the scope of the claim to clarify that treating the waste forms a fluff. As agreed to by the Examiner during the October 20 telephone interview, the specification provides representative examples of treatments for forming a fluff. Such treatments can (but need not) include shredding or pulverizing a product (specification at page 8, lines 2 and 7). Accordingly, the Section 112, second paragraph rejection of claim 18 and its dependents should be withdrawn.

C. Response to the Section 103 Rejections

Claim 1, as amended, is directed to a combustible pellet having a fuel value of at least 10,000 BTU per pound. The pellet comprises a recyclable-free, hazardous waste-free municipal solid waste, and at least one waste substance having a fuel value of at least 10,000 BTU per pound. The recyclable-free, hazardous waste-free municipal solid waste is approximately or completely free of glass, metals, plastics, and paper.

Municipal waste is characterized in the present application as waste that "may contain a wide variety of waste or discarded material" (specification at page 7, lines 3-4). Such waste "may include biodegradable waste, non-biodegradable waste, ferrous materials, non-ferrous metals, paper or cardboard in a wide variety of forms, a wide range of plastics (some of which may contain traces of toxic metals used as catalysts, stabilizers or other additives), paints, varnishes and solvents, fabrics, wood products, glass, chemicals including medicines, pesticides and the like, solid waste of various types and a wide range of other materials" (specification at page 7, lines 3-10). The foregoing representative (e.g., non-exhaustive) characterization of municipal waste is consistent with the commonly accepted use of the term as referring to a solid waste stream generated by a typical municipality.

Sprules discloses a solid burnable fuel composition (e.g., a log) that contains a major proportion of spent dried coffee grounds. The fuel composition includes "at least 50% dried spent coffee grounds and a combustible wax which are mixed together and compressed into a suitable shape for combustion" (Sprules at Abstract, emphasis added). Sprules further teaches that it may be desirable to increase the proportion of the composition that includes coffee, stating that "a log containing 90% coffee and 10% wax provides slightly more flame output than a log containing 50% wood sawdust and 50% wax" (Sprules at column 5, lines 61-64). Sprules further states the desirability of a homogeneous coffee composition for use in his product. For example, Sprules states that "since coffee can be obtained in a relatively homogenous mixture from food processing establishments, it is less likely to contain impurities such as found in sawdust (e.g., dirt,

rocks, and metals from bark, furniture finishing processes, saw mills). Consequently, less energy and capital are required to clean the material input stream." (Sprules at column 7, lines 30-35, emphasis added.)

Sprules not only fails to disclose or suggest a combustible pellet comprising "recyclable-free, hazardous waste-free municipal solid waste," but explicitly teaches away from such a composition. For example, Sprules specifically states that his composition includes "at least 50% dried spent coffee grounds." While the undersigned attorney is willing to concede that municipal solid waste may include at least some spent coffee grounds (dried or otherwise), it is unreasonable to believe that any municipal solid waste stream would include at least 50% dried spent coffee grounds, as is required by Sprules' teachings. Accordingly, one of ordinary skill in the relevant art would not be motivated by Sprules' disclosure to replace at least 50% dried spent coffee grounds with municipal solid waste, which would clearly contain less than 50% dried spent coffee grounds.

Furthermore, Sprules explicitly states the desirability of a "relatively homogenous mixture from food processing establishments" as forming the basis for his composition. Again, it is unreasonable to expect that one of ordinary skill in the relevant art, after reviewing Sprules' disclosure, would replace Sprules' "coffee . . . obtained in a relatively homogenous mixture from food processing establishments" with "municipal solid waste," which includes non-coffee waste from many other establishments as well. Accordingly, the reliance on Sprules fails to establish a *prima facie* case of obviousness with respect to claim 1, and therefore the Section 103 rejection of claim 1 should be withdrawn.

Claims 3-6, 9-17, 44 and 45 all depend from claim 1. Accordingly, the Section 103 rejections of these claims should be withdrawn for the foregoing reasons and for the additional features of these claims.

D. Conclusion

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 356828002US from which the undersigned is authorized to draw.

Dated: October 25, 2005

Respectfully submitted,

By _____

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